BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

(Under the Real Estate Regulation And Development Act 2016)

DATED 03.02.2021

Coram : Mr.Justice B.Rajendran, Chairperson
Mr.N.Balasubramanian, Judicial Member
Ms.Leena Nair, Administrative Member

Appeal No. 79 of 2020

M/s.Sare Shelters Project Private Limited
(Formerly known as SARE Jubilee Shelter Private Ltd.)
Rep. by its Authorized Signatory

... Appellant

-Vs-

Mr.Rajmohan Murugesan
(through his POA N.Murugesan) ... Respondent

This appeal was taken on file on 16.12.2020. The appellant represented through Mr.G.Sriram, Practicing Company Secretary. The application under Section 43(5) of the Act in M.A.No.152/2020 came up for final hearing on 06.01.2021 and heard the appellant side through video conferencing and this Tribunal passed an order by directing the appellant to pay 40% of the total amount as ordered by the court below on or before 25.01.2021 failing compliance to deposit, the appeal will be dismissed automatically and posted for compliance on 27.01.2021. On that day the appellants' representative represented that due

to non availability of certified copy of the order the appellant is not able to comply and sought for further time. Considering the request this Tribunal granted one week time to comply 6.1.2021 Order on or before 02.02.2021 call on 03.02.2021. On that day the appellant's representative represented that the appellant has not complied with the conditional order. Hence this Tribunal passed the following:

ORDER

2. The respondent and the appellant entered into sale and construction agreement on 10.02.2012. The sale consideration was fixed at Rs.29,25,724/-. The appellant agreed to hand over possession within 24 months with a grace period of 3 months from the date of obtaining building plan sanction. The respondent paid Rs.29,50,596/- which is 100% of the consideration. The building plan was approved on 11.06.2012. On 28.11.2014, the appellant sent a letter of offer of possession demanding payment of 10% of the final payment. The respondent visited the property and came to know that from December 2013 no progress in construction. Hence, the respondent requested the appellant to terminate the agreement and refund of entire amount with interest and compensation. Since the appellant failed to comply the request of the respondent, he approached the Adjudicating Officer for the relief of refund of sale consideration with interest and compensation. After contest the Adjudicating Officer allowed the claim in part. Aggrieved upon that the appellant preferred this Appeal.

3. The appellant failed to comply the pre-deposit order under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016, dated 6.1.2021, this Tribunal passed the following order:

" The appellant's representative present and states that the appellant has not obeyed the order of the Hon'ble Tribunal in depositing the amount which is mandatory under section 43(5) of the Act.
In view of the non compliance of the conditional order the M.A.No.152/2020 is dismissed. Consequently the appeal is dismissed for non compliance of depositing the prerequisite amount as contemplated under Section 43(5) of the Act."

The connected Miscellaneous applications are closed.

This Order is directly dictated to the Stenographer and typed in the computer by her, corrected and pronounced by us in the open court on 03rd Day of February 2021.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMN. MEMBER

Sd/- xxxx
JUDL. MEMBER

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